

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION No. 05-11454 RGS

JOSEPH H. KORAN, and KIMBERLY KORAN,	)
Individually and on Behalf of ANA KORAN,	)
JOSEPH KORAN, JR. and ERIK KORAN, Minors,	)
Plaintiffs,	)
v.	)
ELIZABETH WEAVER and	)
TOWN OF SHERBORN,	)
Defendants.	)

**DEFENDANT TOWN OF SHERBORN'S EXPERT DISCLOSURE**

Now comes the defendant, Town of Sherborn, pursuant to Fed. R. Civ. P. 26(a)(2) and this court's Scheduling Orders, and hereby discloses the following witness who may used at trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence:

Michael G. Kennedy, MD  
6 Union St.  
Natick, MA 01760

Dr. Kennedy is a licensed medical doctor in three states, including Massachusetts, and is a Board Certified Orthopaedic Surgeon. His education, training, licensing, experience, memberships, publications, presentations conducted and seminars attended are all outlined in the attached Curriculum Vitae (attached as Exhibit 1).

Dr. Kennedy was retained by the Town of Sherborn to review pertinent medical records (List of Documents Submitted for Review attached as Exhibit 2), and provide certain opinions as to the nature, cause and extent of any low back pain and related symptoms described by the plaintiff. Dr. Kennedy's Dr. Kennedy has been and will be compensated \$390.00 per hour for his expert services in this case.

Dr. Kennedy has been accepted as an expert on such matters in U.S. District and State courts throughout the Commonwealth of Massachusetts (list of cases attached as Exhibit 3). Dr. Kennedy will provide testimony and other evidence concerning the cause, nature and extent of the plaintiff's low back condition and associated symptoms, and other matters as more fully set forth in the accompanying reports (attached as Exhibit 4) pursuant to Fed. R. Civ. P. 26(a)(2)(B).

The defendant reserves the right to supplement this disclosure as further information is obtained through discovery and otherwise.

The Defendant,  
TOWN OF SHERBORN,  
By their attorneys,

**PIERCE, DAVIS & PERRITANO, LLP**

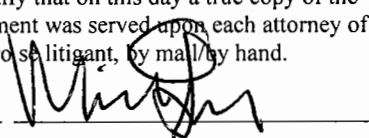


Michael D. Leedberg, BBO# 660832  
Ten Winthrop Square  
Boston, MA 02110  
(617) 350-0950

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the above document was served upon each attorney of record, or pro se litigant, by mail/by hand.

10/20/06  
Date



# EXHIBIT 1

# CURRICULUM VITAE

NAME: KENNEDY, Michael Gerald

DATE & PLACE OF BIRTH: April 14, 1950  
Almonte, Ontario, Canada

CITIZEN STATUS: American Citizen

LANGUAGE SPOKEN: English

DEGREES: B.A. Queen's, University  
Faculty of Arts & Science  
Kingston, Ontario, Canada

M.D. Queen's University  
Faculty of Medicine  
Kingston, Ontario, Canada

F.R.C.S. (C) Fellow of the Royal College of  
Surgeons of Canada (Orthopedic  
Surgery)

LICENSES: L.M.C.C. Licentiate of Medical Council of  
Canada

M.D. General License of the College of  
Physicians and Surgeons of Ontario

F.R.C.S. (C) Orthopaedic Surgery Specialist License  
Of the Royal College of Surgeons of  
Canada

BOARD CERT. Board Certification in Orthopaedic  
Surgery

M.D. Massachusetts Medical License  
Vermont Medical License  
Maine Medical License

## EDUCATION:

1963-1968 Almonte High School  
Five Year Arts & Science Programme  
Almonte, Ontario, Canada

1968-1970 Bachelor of Arts Degree - Chemistry Major  
Queen's University  
Kingston, Ontario, Canada

1970-1974 Doctor of Medicine Degree  
Queen's University  
Kingston, Ontario, Canada

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APPOINTMENTS:

1974-1975	Rotating Internship University of Ottawa Ottawa Civic Hospital Ottawa, Ontario, Canada
1975-1976	1 <sup>st</sup> Year Orthopaedic Surgery General Surgery Rotation – 3 months Neurosurgery Rotation – 3 months Cardiothoracic Surgery Rotation – 3 months Plastic Surgery Rotation – 3 months
1976-1977	2 <sup>nd</sup> Year Orthopaedic Surgery Including 3 months rotation of Orthopaedic Pathology
1977-1978	3 <sup>rd</sup> Year Orthopaedic Surgery including 3 months rotation as Registrar in Orthopaedic Surgery University Hospital of the West Indies Kingston, Jamaica, West Indies  2 Months Rotation as Resident Orthopaedic Physician Crippled Children's Treatment Centre Toronto, Ontario, Canada
1978-1979	4 <sup>th</sup> Year Orthopaedic Surgery
1980-Present	Orthopaedic Surgeon, Natick, Massachusetts

PAPERS & PRESENTATIONS:

"A Review of Non-Operative Knee Arthroscopies"

- (a) Presently being published in "Clinical Orthopaedics & Related Research"  
Journal U.S.A. Publications
- (b) Presented at:
  - 1) Canadian Orthopaedic Association Meeting,  
Vancouver, British Columbia – June, 1978
  - 2) Canadian Residents Association Meeting  
Halifax, Nova Scotia – May, 1978
  - 3) Twelfth Annual American Orthopaedic Association  
Resident's Conference  
Gainesville, Florida – April, 1979

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MEETINGS ATTENDED:

- 1) Advanced Arthroscopy Update  
San Diego, CA., November, 1981
- 2) Arthroscopic Surgery – A.A.O.S.  
Dixville Notch, NH, October, 1982
- 3) Summer Institute in Orthopedics  
Boston, MA, October, 1983
- 4) Advanced Arthroscopic Surgery  
Bal Harbor, FL, January, 1984
- 5) Arthroscopy Clinic  
Boston, MA, November, 1984
- 6) American Seminar Institute  
Surgical Update  
Hawaii, January, 1985
- 7) Annual Orthopedic Society Meeting  
Surgical Update  
Orlando, FL, November, 1985
- 8) The Problem Foot & Ankle  
B.U. School of Medicine  
Boston, MA, January, 1986
- 9) American Educational Institute  
Professional Mal-Practice / Practice Management Seminar  
Orlando, FL, November, 1987
- 10) Mal-Practice & Asset Protection  
Boston, MA, June, 1988
- 11) Texas Tech. University  
“Fifth Annual Pain Symposium”  
Lubbock, TX, June, 1988
- 12) American Educational Institute  
Professional Mal-Practice / Practice Management Seminar  
Orlando, FL, November, 1988
- 13) American Academy of Orthopedic Surgeons  
56<sup>th</sup> Annual Meeting (Orthopedic Update)  
Las Vegas, Nevada, February, 1989
- 14) Surgi-Tech, Inc.  
Hip & Knee Replacement Clinic  
Denver, Colorado, March, 1989

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MEETINGS ATTENDED:

- 15) Orco, Inc.  
CPT Coding Seminar  
Boston, MA, March, 1989
- 16) U. Mass Medical School  
Management of Pain: Acute & Chronic  
New Seabury, Cape Cod, MA, June, 1989
- 17) Russell Rizzo Memorial Symposium  
Clinical Management of Pain  
Cleveland, Ohio, September, 1989
- 18) University of South Florida  
Medical Risk Management / AIDS Education  
Bermuda, November, 1989
- 19) Meeting Planners, Inc.  
Shoulder Laboratory  
Richmond, VA, December, 1989
- 20) American Academy of Orthopedic Surgeons  
Medical Mal-Practice / Risk Management & AIDS Update  
Lake Tahoe, CA, February, 1990
- 21) American Academy of Orthopedic Surgeons  
Arthroscopic Surgery Update / Coding  
New Orleans, LA, February, 1990
- 22) DePuy  
Orthopedic Implant Technology Exam  
Park City, Utah, March, 1990
- 23) Arthroscopy Assoc. of N. America  
Arthroscopic Instructional Course  
Orlando, FL, April, 1990
- 24) Coherent - Workshop  
Arthroscopic Laser Surgery  
New York, NY, August, 1990
- 25) Metaphor Conference (International Arthroscopy Assoc.)  
London Symposium on Arthroscopy  
England, October, 1990
- 26) Medical Education Resources, Inc.  
Arrhythmia Interpretation Diagnosis & Management  
Montego Bay, Jamaica, February, 1991

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**MEETINGS ATTENDED:**

- 27) Chattanooga Unit of the College of Medicine  
ID for the Primary Care Physician  
Hamilton, Bermuda, April, 1991
- 28) University of Tennessee (College of Medicine)  
Infectious Disease  
Hamilton, Bermuda, April, 1991
- 29) International Arthroscopy Association  
Endoscopy in Orthopedic Surgery  
Adelaide, Australia, November, 1992
- 30) American Educational Institute  
AIDS, OSHA Medicare & Medical Mal-Practice  
Mullet Bay, St. Maarten, January, 1993
- 31) American Seminar Institute  
Sports Medicine  
Bermuda, February, 1993
- 32) American Academy of Orthopedic Surgeons  
Annual Orthopedic Meeting  
New Orleans, February, 1994
- 33) American Seminar Institute  
AIDS & Risk Management  
Palmos DelMar, Puerto Rico, June, 1995
- 34) American Seminar Institute  
Orthopedic Review  
Montego Bay, Jamaica, February, 1995
- 35) American Academy of Orthopedic Surgeons  
Annual Orthopedic Meeting  
Orlando, FL, February, 1995
- 36) American Seminar Institute  
AIDS & Risk Management Review  
Jamaica, February, 1996
- 37) American Seminar Institute  
Orthopedic Review  
Orlando, FL, March, 1996
- 38) American Academy of Orthopedic Surgeons.  
Orthopedic Management of Pain  
Lumbar Spine: Controversies in Management  
Cervical Spine: Neck Pain  
Slipped Capital Femoral Epiphysis  
San Francisco, CA, February, 1997



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MEETINGS ATTENDED:

- 39) Orthopedic Medical Update  
Orlando, FL, March, 1997
- 40) American Seminar Institute  
Sports Medicine Review  
San Juan, Puerto Rico, October, 1997
- 41) American Seminar Institute  
AIDS & Risk Management Review  
San Juan, Puerto Rico, November, 1997
- 42) American Seminar Institute  
Sports Medicine Review  
Aruba, December, 1997
- 43) American Seminar Institute  
Family Practice Review  
Jamaica, February, 1998
- 44) Orthopedic Medical Update  
Grand Cayman, February, 1998
- 45) American Academy of Orthopedic Surgeons  
Orthopedic Annual Meeting  
New Orleans, LA, March, 1998
- 46) American Educational Institute  
Medical - Legal Update  
Aruba, January and March, 1999
- 47) American Academy of Orthopedic Surgeons  
66th Annual Meeting  
Anaheim, CA, February, 1999
- 48) American Seminar Institute  
Orthopedic Review  
Jamaica, February, 1999
- 49) American Educational Institute, Inc.  
1999 - 2000 Medical-Dental Legal Update  
Aruba, November, 1999
- 50) Metro-West Medical Center  
Continuing Medical Education Program  
Health & Spirituality  
Natick, MA, November, 1999

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MEETINGS ATTENDED:

- 51) American Seminar Institute  
Orthopedic Review  
Paris, France, April 2000
- 52) American Seminar Institute  
AIDS/Risk Management / State Requirements  
Jamaica, February 2000
- 53) American Academy of Orthopedic Surgeons  
67th Annual Meeting  
Orlando, FL., March 2000
- 54) American Educational Institute Inc.  
Medical-Dental-Legal Update  
Aruba, November and January 2000
- 55) American Educational Institute Inc.  
Medical-Dental-Legal Update  
Aruba, January 2001
- 56) American Educational Institute Inc.  
Medical-Legal Update  
Aruba, January 2002
- 57) American Academy of Orthopedic Surgeons  
New Orleans February 2003
  - A. Complications of Anterior Cruciate  
Ligament Reconstruction
  - B. Cervical Spine - Neck Pain & Radiculopathy
  - C. Lumbar Disc Degeneration - Treatment Option
  - D. Osteonecrosis of Hip

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**MEMBERSHIPS:**

1975-Present

1. Royal College of Physicians & Surgeons of Canada F.R.C.S. (C)
2. Canadian Medical Association
3. Fellow of American Board of Orthopedic Surgery
4. Massachusetts Medical Society
5. Massachusetts Orthopedic Association

# EXHIBIT 2

**LIST OF MATERIALS SUBMITTED TO**  
**DR. KENNEDY FOR REVIEW**

1. Records from Timothy McMullen, MD (1/29/96-4/21/00)
2. Records from Robert G. Samaan, MD (4/21/00-9/12/02)
3. Photos of Ambulance Cot
4. Sherborn Fire Dept. EMS Report (2/6/03)
5. Fire & Rescue Incident Report (2/6/03)
6. MetroWest ER Records (2/6/03)
7. Medical records review from K. Meloon, RN, MCC (5/20/04)
8. Records from Felipe Diaz, MD (10/25/02- 6/10/03)
9. Diagnostic Imaging Reports (2/12/03 & 12/15/04)
10. Records from CNY PT (3/7/03-7/16/03)
11. Records from James Dispenza, MD (7/19/03)
12. Records from Clyde Satterly, MD (1/30/04-6/1/05)
13. Records from Robert Tiso, MD and Joseph Catania, MD (8/8/03-1/3/05)
14. Prescriptions records from CVS Pharmacy (6/13/01-8/13/06), Eckard Pharmacy (9/21/04-2/15/05), Medicine Plus Pharmacy (11/23/05-8/15/06) and Kinney Drugs 10/25/02-10/27/05)
15. Records from Warren Wulff, MD (7/17/03-9/7/04)
16. Records from Harvey Sauer, MD (10/15/04-8/13/05)
17. Records from Cameron B. Huckell, MD (10/7/04)
18. Records from St. Joseph's Hospital (9/12/03-10/27/05)
19. Records from Jay Gonchigar, MD (11/23/05-7/24/06)
20. Chart from Frederick Primary Care Associates (12/13/05-6/16/06)(also including 2006 records from Dr. Swami Nathan, Dr. James Amerena, Dr. Majd Hakim and Dr. Mark Coyne)

# **EXHIBIT 3**

**MICHAEL G. KENNEDY, M.D., P.C., F.R.C.S. (C)**

6 UNION STREET  
NATICK, MASSACHUSETTS 01760

TEL.(508) 655-5115 • FAX (508) 650-9351

DEPOSITIONS: 2002

Boyajian, Daniel VS: Todesca Corp. Attorney Joanne Goulka GRIFFIN & GOULKA	Suffolk Superior Court Docket #99-0714B	01-07-02
Cordero, Joel VS: E.G. Jerrett & Son Attorney Richard Whalen KENNER/ENGELBERG/DADALT/BRATCHER	Suffolk Superior Docket #00-0113E	06-17-02
Sparks, Robert VS: Joaquim Teixiera Attorney George Clancy FULLER/ROSENBERG/PALMER/BELIVEAU	Suffolk Superior Docket #01-0319B	07-15-02
Gagnon, Lance VS: Timothy Fahey Attorney Allan Forbes MINTZ/LEVIN/COHN/FERRIS/GLOVSKY/POPEO	Middlesex Superior Docket #99-1904	08-12-02
Deminie, Denise VS: Ron Hill Attorney Richard Whalen KENNER/ENGELBERG/DADALT/BRATCHER	Suffolk Superior Docket #001333G	08-20-02
MALLON, Richard VS: Penske Trucking Attorney David O'Connor O'CONNOR & ASSOCIATES	Essex Superior Court Docket #02-969	10-01-02
Nestor, Lisa VS: Christopher Cahill Attorney John Fagan GETMEN/STACEY/TAMOSI/SCHUTHLESS/STEELE	Rockingham Superior Docket #01-C-0242	12-23-02
PEZZOTE, Robert VS: Tami Nelson, D.C. Attorney Bernard Guekguezian ADLER/COHEN/HARVEY/WAKEMAN/GUEKGUEZIAN	Hampden County Court Docket #99-472	12-30-02
Morales, Mary Ann VS: DeMoula's Supermarket Attorney Neil Cohen LAW OFFICE OF JEFFREY GLASSMAN	Framingham District Court Docket #00CI-687	07-30-02

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DEPOSITIONS: 2003

Gauthier, Helene VS: Marriott Corp. Attorney Helena O'Brien CAMPBELL/CAMPBELL/EDWARDS/CONROY	Middlesex Superior Court Docket #98-4175	01-14-03
Doucet, Jeanne VS: Arthur Dunham Attorney John Curran GETMAN/STACEY/TAMPOSI/SCHUTHLESS/STEELE	Hillsboro Superior Court Northern District N.H. Docket #02-C-240	01-21-03
Chartier, Elizabeth VS: Thea Richardson Attorney Conrad Bletzer, Jr. BLETZER & BLETZER	Middlesex Superior Docket #005393	01-22-03
Oliveira, Isaura VS: Nona Kramer Attorney Susan Oftring HEALY & HEALY	Sufolk Superior Docket #CV1999-06152	04-16-03
Gabriel, Noble VS: Equitable Life Attorney Joseph Hamilton MIRICK/O'CONNELL	U.S. District Court of Massachusetts Docket #01CV10064EFH	06-16-03
Winchester, Janet VS: Winstead LTD. Attorney Grace Bacon MORRISON/MAHONEY/MILLER	Quincy District Court Docket #100002471	06-19-03
Juvelis, Joy VS: Carey Thompson Attorney Scott Birrell FAILLE/HIGHAM/BIRRELL/DANIELS	Superior Court Docket #99-0588771-S	08-26-03



**MICHAEL G. KENNEDY, M.D., P.C., F.R.C.S. (C)**

6 UNION STREET  
NATICK, MASSACHUSETTS 01760

TEL.(508) 655-5115 • FAX (508) 650-9351

DEPOSITIONS: 2004

CARACCILOLO, Anthony VS: Donald Zebruse Attorney Allen Forbes MINTZ/LEVIN/COHN/FERRIS/GLOVSKY/POPEO	Middlesex Superior Court Docket # 02-10CV454	01-21-04
PROKOS, Dimitrius VS: Kevin Houghton Attorney James Marano KUSHNER/MARANO/MURPHY	Worcester Superior Court Docket # 98-2190	02-12-04
BASSETT, Christopher VS: Verizon N.E. Inc Attorney Allen Forbes MINTZ/LEVIN/COHN/FERRIS/GLOVSKY/POPEO	Suffolk Superior Court Docket # 02-01983	04-27-04
SANCHEZ, Jose VS: Paul Page/Joel Boisvert/ RPS, Inc. Attorney Kenneth Robbins CAMPBELL/CAMPBELL/EDWARDS/CONROY	Middlesex Superior Court Docket # 01-05150	05-03-04
TURNER, Judy VS: Daniel LeTarte Attorney Emmanuel Papanickolas LAW OFFICES	Essex Superior Court Docket #ESCV2000-01146	07-07-04
PEGUERO, Carmen VS: Lowes Home Improve- ment Warehouse Attorney Grace Bacon MORRISON MAHONEY LLP	Salem District Court Docket #200236CV000845	09-14-04
WALTZ, David VS: Resurgens Orthopaedic Attorney Clay Milling HENRY/SPIEGAL/FRIED/MILLING	State Court Fulton Georgia Docket #03-VS05-6155G	10-13-04
BRIGGS, Doreen VS: Carney, Jeffrey/ Cormier/Craig/Peterson Trust	Middlesex Superior Court Docket #00-2657	12-29-04

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NATICK, MASSACHUSETTS 01760

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DEPOSITIONS:                      2005

BURACK, Jeanette VS. Alfred Pannesi  
PIERCE, DAVIS & PERRITANO,LLP  
Attorney Maureen Pomeroy

Middlesex Superior Court 06-06-05  
Docket # 2003-00250

LOMBARDI, Joseph VS Lowe's Home Center  
Morrison Mahoney, LLP  
Attorney Thomas Federico

United States District Court  
Docket # 04-12678-WGY

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6 UNION STREET  
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DEPOSITIONS 2006

Esdale, Anthony VS: Bradford Towne	Suffolk Superior Court	05-11-06
Attorney William Fidurko	Docket # 03-5834	
Zizik,Powers,Oconnell,Spaulding & Lamontagne		

**MICHAEL G. KENNEDY, M.D., P.C., F.R.C.S. (C)**

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TEL.(508) 655-5115 • FAX (508) 650-9351

TRIALS: 2002

Williams (John for: Catherine) Attorney J. Yasmin Tayyab ADLER/COHEN/HARVEY/WAKEMAN/GUEKGUEZIAN	Bristol County Superior Docket #98-01088	01-17-02
Wojkun, Peter VS: John Wolkonocki Attorney William Chapman MELICK/PORTER/SHEA	Lawrence Superior Docket #9918 RM8	02-14-02
Gaffney, John VS: Ramon Parga Attorney Jeffrey Melick (left firm) MELICK/PORTER/SHEA	Essex Superior Docket #96-1275	05-03-02
Geller, Alan VS: Ron Hill Attorney Jay Symonds MIRICK/O'CONNELL	Bristol Superior Court Docket #000399	08-28-02
March, Marilyn VS: Joe Downey Chevrolet Attorney Charles Capace KURNOS/CAPACE/MARGOLIN	Norfolk Superior Docket #2001-107	09-04-02
Bhatti, Mohammed VS: Thomas Wooters Attorney John Donovan SLOANE & WALSH	Middlesex Superior Docket #2001-02151	09-11-02
Gibson, Hasty VS: Newton Yellow Cab Attorney Joseph Abate O'CONNOR & ASSOCIATES	Brockton Superior Docket #98-0518A	10-02-02
MacDonald, Rosemary VS: David Savery Attorney Mary Mone (left firm) CLARK/BALBONI/GILDEA	Brockton District Court Docket #0059CV0039	10-08-02
Gokey, Laurie VS: Judith Tabor Attorney Scott Birrell FAILLE/HIGHAM/BIRRELL/DANIELS	Middletown Superior Court Conneticut	11-21-02

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TRIALS: 2003

Deleconio, Thomas VS: Hortense Seybolt Attorney James Franchek FRANCHEK & PORTER	Suffolk Superior Court Docket #2000-1284B (Arbitration)	01-23 & 24-03
Hamel, Leo VS: Malden Mills Ind. Attorney Richard Whalen KENNER/ENGELBERG/DADALT/BRATCHER	Superior Court Docket #99-06117	04-17-03
Oliveria, Isaura VS: Nona Kramer Attorney Susan Oftring Healy & HEALY	Suffolk Superior Docket #CV1999-06152	04-18-03
Bidgood, Susan VS: Dori Rifkin Attorney Richrd Mazzocca FINNERAN-BYRNE-DRECHSLER	Middlesex Superior Court Docket #MICV2002-02902	09-09-03
Juvelis, Joy VS: Carey Thompson Attorney Scott Birrell FAILLE/HIGHAM/BIRRELL/DANIELS	Superior Court-Connecticut Docket #99-0588771-S	10-10-03

**MICHAEL G. KENNEDY, M.D., P.C., F.R.C.S. (C)**

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TRIALS: 2004

INFANTILINO, Louise VS: Pawtucket Mutual Attorney Kevin Holley GUNNING & LAFAZIA	(Arbitration)	02-26-04
CAMACHO, Andres/Noel Medina VS: Samuel Andres Attorney Ralph Cecere MCNAUGHT/CECERE/MCNAUGHT	Middlesex Superior Court Docket # 00 CI-0846	03-01-04
DYER, Charles VS: Town of Lunenburg Attorney Joseph Hamilton MIRICK/O'CONNELL	Worcester Superior Court Docket # 94-2802	04-01-04
GOLDBERG, Jill VS: Li Zeng Attorney Martin Cosgrove COSGROVE/EISENBERG/KILEY	Middlesex Superior Court Docket # 02-4091 (Arbitration)	06-08-04
GABRIEL, Noble VS: Equitable Life Assurance Society of U.S. Attorney Joseph Hamilton MIRICK/O'CONNELL	U.S. District Court Docket # 01CV10064EFH	05-13-04
TOOPS, Frances VS: Paul/Pat Campobasso Attorney Frederick Doyle BLACK/CETKOVIC/WHITESTONE	Middlesex Superior Court Docket #00-0542	10-06-04
PUTALA, Edward VS: Victoria Bar & Grill Attorney Matthew Pifer PAUL/FRANK/COLLINS	(Arbitration)	10-07-04
BURCY, Aundria VS: CSX Transportation Attorney Michael Flynn FLYNN & ASSOCIATES	Suffolk Superior Court Docket #01-5311-A	10-08-04

**MICHAEL G. KENNEDY, M.D., P.C., F.R.C.S. (C)**

6 UNION STREET  
NATICK, MASSACHUSETTS 01760

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TRIALS: 2005

DEMARS, Edward VS. Paul Blomerth, D.C. &  
Deborah DeBastiani, D.C.  
Attorney Bernard Guekguezian  
WAKEMAN & GUEKGUEZIAN

Hampshire Superior Court 3-11-05  
Docket # 01-109

SURABIAN, Michael VS. University Of Mass  
Attorney Kristine Canepa  
MIRICK/ O'CONNELL

Worcester Superior Court 4-14-05  
Docket # 02-0476-B

# EXHIBIT 4



**MICHAEL G. KENNEDY, M.D., P.C., F.R.C.S. (C)**

6 UNION STREET  
NATICK, MASSACHUSETTS 01760

TEL.(508) 655-5115 • FAX (508) 650-9351

September 8, 2006

Attorney Michael Leedberg  
Ten Winthrop Square  
Boston, Mass. 02110-1257

RE: Joseph Koran

Dear Attorney Leedberg:

I had the opportunity to review numerous medical records sent concerning Mr. Joseph Koran and I will briefly summarize these documents. At the end of this report I will render the opinion to a reasonable degree of medical certainty based upon those record supplied.

**THE INDIVIDUAL:**

At the time of the February 6, 2003 event Mr. Koran was a 41-year-old married individual. As of 8/1/03 he was 6' in height and weighed 220 lb.

Mr. Koran was working as a sales manager for Schwann's Foods.

**PAST MEDICAL HISTORY:**

On 4/21/2000 Mr. Koran made his way to see Dr. Samaan. Dr. Samaan was Mr. Koran's new family physician as the patient had just moved from Columbus, Ohio to Cincinnati and was claiming that he was very stressed with that move.

On 11/29/2000 Dr. Koran again saw Dr. Samaan and was complaining of low back discomfort, which he had experienced for many years. As of that time he was doing back exercises to address this situation.

On 12/14/02 Dr. Samaan saw Mr. Koran for a problem the patient was having with erectile dysfunction. It was suggested that Mr. Koran stop using his Paxil and switch to Wellbutrin (he was on this medication for a problem with anxiety).

RE: Joseph Koran

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On 7/22/02 Dr. Samaan made mention that Mr. Koran was problematic with pain in his lower back, which was going into his left hip and down his left leg.

On 8/13/02 Dr. Samaan again saw Mr. Koran and the patient had just experienced a gouty attack, but his had gone away within 24 hours. It was reported by Dr. Samaan that the patient's complaints of low back discomfort remained. Additionally Mr. Koran was having problems related to hypogonadism. The low testosterone level that the patient had was thought to account for a lot of his complaints of fatigue, weakness, arthralgias and erectile dysfunction. An injection of testosterone was given to the patient.

On 9/12/02 Dr. Samaan again gave Mr. Koran an injection of testosterone for his problems related to the hypogonadism.

On 10/24/02 Mr. Koran saw Dr. Diaz (his new family physician in Cicero, New York). The patient was diagnosed as having gout and an x-ray taken of the sacroiliac joint was reported as negative. The reason for the ordering of the x-ray was "gout". (Dr. Diaz's notes of 10/24/02 amounted to only two lines and not much can be made as regards to this office visit. However, the patient must have been having trouble with the sacroiliac/low back area or an x-ray of that region would not have been taken).

### **THE ACCIDENT:**

On February 6, 2003 Mr. Koran was at the Sherborn Inn when his left foot was run over by a car. The ambulance was called to the scene and Mr. Koran was put on a stretcher to be taken to the hospital. That ambulance stretcher did not lock in position and it released to a lower level. Mr. Koran at the time of the stretcher incident was strapped in. Mr. Koran was telling the ambulance providers that he was "okay" and did not sustain any injuries. He was then transferred by the ambulance personnel to the Emergency Room at the Metro West Medical Center. (See the ambulance report, as well as the incident report from the ambulance providers).

### **SUBSEQUENT MEDICAL TREATMENT:**

Mr. Koran was seen that same day of the accident (2/6/03) at the Metro West Medical Center and was complaining to the providers there of only a left foot problem. The patient was denying any other trauma. An x-ray was taken of the left foot and this was reported as normal. A diagnosis of a soft tissue injury of the foot was made and Mr. Koran was discharged from the hospital that same day.

On 2/10/03 Mr. Koran made his way to see Dr. Diaz and was telling that provider about the accident when the ambulance gurney fell approximately 4' to the ground allegedly causing him neck and low back discomfort, which was minimal at first, but over the one to two days following that event, the pain had increased and additionally he was experiencing radiation of discomfort into his left leg.

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On physical examination there were only subjective findings. A diagnosis of a neck strain and a lumbar disc herniation with radiculopathy was made.

On 2/12/03 an MRI was taken of Mr. Koran's cervical spine and there was noted to be a reversal of the normal cervical lordosis with mild disc bulging at the C6-7 level.

On 2/12/03 an MRI was taken of Mr. Koran's lumbosacral region and there was noted to be lumbar spondylosis most marked at the L5-S1 level. There was marked disc space narrowing at L5-S1 along with degenerative end plate changes and a posterior disc/osteophyte complex on the right side abutting the right S1 nerve root, but not deviating it.

On 3/7/03 Mr. Koran was started on a physical therapy program and continued this through to 7/16/03. When first seen by the therapist Mr. Koran had complaints as regards to low back discomfort going into both legs "ever since" the ambulance event and symptoms referable to a left foot sprain. When last seen by the therapist on 7/16/03 Mr. Koran was complaining of low back discomfort going into both of his legs.

On 3/20/03 Dr. Diaz made mention that Mr. Koran's back pain was improved. Viagra was prescribed to address the patient's symptoms of erectile dysfunction and this problem was said to be secondary to the stress the patient was experiencing with the accident, as well as the multiple medications that he was on for his back problem.

On 3/24/03 Dr. Diaz saw Mr. Koran for a problem with headaches and on physical examination the patient's neck was supple.

On 3/25/03 Dr. Wulff (an orthopedic surgeon) saw Mr. Koran and a note for this visit was dictated on 8/8/03. Mr. Koran was said to have complaints of low back discomfort and Dr. Wulff diagnosed him as having degenerative disc disease and back pain "triggered by the fall" (2/6/03). The degenerative disc disease was said to likely pre-exist the February 2003 incident, but was reportedly asymptomatic before 2/6/03 and therefore, all of the symptoms the patient was having were attributable to the ambulance event.

On 3/28/03 Dr. Diaz saw Mr. Koran for a problem with hypertension. On physical examination the patient's neck was supple.

On 4/8/03 Dr. Diaz next saw Mr. Koran with the patient's complaints of neck and back problems. On physical examination the neck was supple and Mr. Koran was diagnosed as having a neck and back strain as a result of the ambulance event. This ambulance incident was called a "work related injury" and it reportedly had resulted in considerable stress to Mr. Koran with resultant decompensation in the control the patient had of his blood pressure.

On 5/6/03 Dr. Diaz again saw Mr. Koran and the patient continued to have neck and back complaints because of the "work related injury".

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On 6/10/03 Mr. Koran made his way to see Dr. Diaz and a note was written "To whom it may concern" in which the physician stated that Mr. Koran was unable to attend his gym program because of the February 2003 event. This "work related injury" was said to have resulted in neck and back problems that were sustained after being dropped on a stretcher while being lowered into an ambulance. The diagnosis of neck and back pain secondary to the injury was made and a physiotherapy program was suggested.

On 7/17/03 Dr. Wulff again saw Mr. Koran and the patient had complaints of low back discomfort with radiation into both legs. As of that time Mr. Koran was not working. He was denying to Dr. Wulff any problems with sexual dysfunction. A diagnosis of discogenic back syndrome was made and a lumbar injection and discogram was suggested.

On 7/19/03 Dr. Dispenza (an associate of Dr. Diaz) saw Mr. Koran and the patient had complaints of low back pain.

On 8/1/03 Dr. Dispenza made note that Mr. Koran was complaining of low back discomfort, which was not improving. Medication was prescribed for this and the patient was told to see Dr. Wulff.

On 8/8/03 Dr. Catania (a physician at the Pain Center) saw Mr. Koran for problems the patient was reporting as regards to low back discomfort, left foot and right shoulder pain. A diagnosis of lumbar spondylosis without myelopathy was made and it was suggested that Mr. Koran consider using medication and receive a nerve block.

On 8/20/03 Dr. Dispenza wrote a note "To whom it may concern" making mention that Mr. Koran continued to treat with Dr. Wulff for low back discomfort and to the affect that he (Dr. Dispenza) would not be involved further in the treatment of this low back condition.

On 9/12/03 Dr. Tiso (a physician at the Pain Center) saw Mr. Koran and gave the patient a right lumbar transforaminal block at the L5-S1 nerve root region.

On 10/7/03 Dr. Tiso again saw Mr. Koran and the patient continued to have complaints of low back discomfort with radiation into his right leg. This was said to have increased since the nerve block given on 9/13/03. A discogram with CAT scan study was suggested along with the use of medication and a physiotherapy program.

On 10/29/03 Mr. Koran underwent a three level CAT scan with discogram. The L3-4, L4-5 and L5-S1 levels were studied and at the L5-S1 level there was a reproduction of the pain and evidence of obvious degenerative disc disease. It was thought that Mr. Koran might be a candidate for a single level fusion.

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On 11/14/03 Dr. Tiso made mention that Mr. Koran was complaining of low back discomfort and again the use of medication and a physiotherapy program to address these problems was suggested.

On 11/19/03 Mr. Koran underwent a CAT scan of his lumbosacral region and at the L5-S1 level there was noted to be a contained annular tear and decreased disc space height with significant osteoarthritic changes.

On 12/11/03 Dr. Tiso again saw Mr. Koran and the patient was given a bilateral selective L5-S1 transforaminal block.

On 1/8/04 Dr. Tiso again performed a bilateral selective transforaminal block at the L5-S1 level.

On 1/20/04 Dr. Wulff made mention that Mr. Koran was considering surgery for his low back condition and was weighing the options of a disc replacement vs. a fusion. As of the time of that office visit Mr. Koran was said not to be working.

On 1/30/04 Dr. Satterly (a new primary care physician) saw Mr. Koran and it was reported that the patient suffered a back (L5-S1 disc) and left foot injury in 2003. Dr. Satterly told Mr. Koran that he should see the providers at the Pain Management Clinic for his back problems. As of the time of that office visit Mr. Koran was already on medication for the low back symptoms.

On 3/10/04 Mr. Koran made his way to see Dr. Tiso at the pain center and a bilateral lumbar transforaminal epidural nerve block at the L5-S1 level was given.

On 5/28/04 Dr. Tiso next saw Mr. Koran and it was being reported that after the injection previously given to him Mr. Koran had noted improvement for 1-2 weeks. As of the time of that office visit Mr. Koran was taking Hydrocodone and Percocet. Dr. Tiso suggested another nerve block and the continued use of medication for the low back symptoms.

On 9/7/04 Dr. Wulff next saw Mr. Koran and the patient was continuing with his complaints of low back discomfort with radiation into both legs. Again it was noted that the patient was considering surgery and leaning toward a fusion, but as of the time of the visit Mr. Koran was going to continue treating with Dr. Tiso.

On 9/17/04 Dr. Satterly saw Mr. Koran and under "present problems" was listed erectile dysfunction that "may" also be related to the back problem and an L5-S1 disc protrusion.

On 10/14/04 Mr. Koran received at the pain center a bilateral lumbar selective transforaminal nerve block at the L5-S1 region.

On 10/15/04 Dr. Sauer (a urologist) saw Mr. Koran with the patient's complaints of irritation on voiding, urge incontinence, erectile dysfunction and inability to reach a climax and ejaculate.



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The patient was temporarily relating these symptoms to the ambulance accident in February 2003. Dr. Sauer suggested that Mr. Koran undergo urodynamic studies and a cystoscopy.

On 11/22/04 Dr. Catania (a physician at the pain clinic) saw Mr. Koran, who was reporting a moderate decrease in his low back discomfort with the injections. Mr. Koran further stated that he was probably going to have surgery on his back in February 2005. Dr. Catania suggested the patient consider nerve blocks and the use of medication.

On 11/24/04 Dr. Tiso again performed a bilateral selective transforaminal nerve block at the L5-S1 level.

On 12/6/04 Dr. Sauer performed urodynamic studies and these showed mild bladder and lower urinary tract irritability.

On 12/15/04 Mr. Koran underwent an MRI study of his lumbosacral region and this was compared to the MRI of 2/12/03 and the CAT scan of 10/29/03. The reason for this MRI was said to be low back and right greater than left leg radicular complaints. At the L5-S1 level there was noted to be degenerative disc disease, which was stable as compared to the prior studies along with a disc/osteophyte complex to the right and encroaching on the right S1 nerve root, but without deviating it. This disc/osteophyte complex was said to be unchanged as compared to the prior investigations.

On 12/29/04 Dr. Tiso performed another bilateral lumbar transforaminal epidural nerve root block.

On 1/3/05 Dr. Catania made mention Mr. Koran had experienced a 30-40% decrease in his pain with the nerve block. Mr. Koran was continuing to complain of low back discomfort with radiation into his right leg. The back surgery was being delayed for at least 9 months because of the possibility that Mr. Koran would have a new job requiring him to travel to Chicago. Therefore, the continued use of nerve root blocks and additional medication was suggested for the patient's symptoms.

On 4/4/05 Dr. Satterly saw Mr. Koran and the patient was complaining of a stiff neck.

On 4/6/05 Dr. Tiso performed a bilateral selective transforaminal block at the L5-S1 level.

On 6/9/05 Dr. Tiso again saw Mr. Koran and gave the patient a bilateral selective transforaminal block at the L5-S1 region.

On 8/4/05 Dr. Tiso again at the L5-S1 level administered a bilateral selective transforaminal block.

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On 10/27/05 Dr. Tiso saw Mr. Koran. A bilateral L5-S1 selective transforaminal block was given.

On 11/2/05 Mr. Koran visited a new pain clinic (The Capital Area Pain Management Association) and there he saw Dr. Gonchigar. Mr. Koran had complaints as regards to low back discomfort with radiation into his right leg and Kadian was prescribed for this. Mr. Koran was denying any bowel or bladder incontinence.

On December 13, 2005 Mr. Koran saw Dr. Frederick (a new primary care physician) and was reporting that in February 2003 he had been involved in a motor vehicle accident and when being taken to the hospital the gurney failed to release and he injured his back "severely".

On 12/23/05 Mr. Koran made his way again to the pain clinic with his complaints of low back discomfort radiating into his right leg and the amount of Kadian the patient was taking was increased.

On 1/18/06 the pain clinic providers that saw Mr. Koran for his low back discomfort again increased the dose of Kadian.

On 2/10/06 Mr. Koran was next seen at the pain clinic and he was continued on Kadian and Oxycodone for his complaints.

On 3/3/06 and 3/24/06 Mr. Koran when seen at the pain clinic and on each occasion was administered a lumbar facet medial branch block at the L3-4, L4-5 and L5-S1 levels.

On 3/8/06 Mr. Koran was again seen by Dr. Frederick and was complaining of chronic back pain and problems with erectile dysfunction.

On 4/19/06 the providers at the pain clinic suggested that Mr. Koran have a repeat of his discogram study.

On 4/21/06 Mr. Koran underwent a lumbar discography examination and at the L5-S1 level there was a positive response with reproduction of the patient's symptoms.

On 4/24/06 the providers at the pain clinic, who saw Mr. Koran for his complaints of low back discomfort with radiation into the right leg thought that an IDET procedure should be considered for the patient's complaints.

On 4/28/06 Mr. Koran was seen at the pain clinic and he wished to proceed with the IDET procedure. For the time being, however, the patient was going to continue the use of his medication.

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On May 1, 2006 Mr. Koran made his way to see Dr. Coyne (a urologist) and was stating that he had a problem with his libido, had a history of back pain and was on Morphine for such. The testosterone levels were said to be low and Mr. Koran was referred to an endocrinologist (Dr. Hoyl).

On 5/5/06 Mr. Koran made his way to the pain clinic with complaints of low back pain going into his ankle and the possibility of another steroid injection being given was raised.

On 5/12/06 Mr. Koran was seen at the pain clinic and an epidural steroid injection into the lumbar region was administered.

On 5/12/06 Mr. Koran saw Dr. Hakin (an endocrinologist) and was complaining of problems with erectile dysfunction, his sex drive and back discomfort since the February 2003 accident.

On 5/30/06 Mr. Koran made his way to the pain clinic and was complaining of low back discomfort. Kadian was prescribed.

On 6/14/06 Mr. Koran had an epidural steroid injection given into his lumbar spine area by the pain clinic providers.

On 6/16/06 Dr. Frederick next saw Mr. Koran and there were no significant complaints as regards to the lower back, but the patient was still on Kadian.

On 7/24/06 Mr. Koran was next seen at the pain clinic and was complaining of low back discomfort. Medication, including Kadian was prescribed.

### **OPINIONS:**

The following are the opinions to a reasonable degree of medical certainty based upon Mr. Koran's medical records.

### **THE LUMBOSACRAL SPINE:**

The following comments should be made relative to any low back complaints with or without sciatica that Mr. Koran has and as he causally relates these to the 2/6/03 event.

1) Mr. Koran had a significant history of problems with his lower back over the years before the 2/6/03 accident and was never proven to be asymptomatic with such prior to the ambulance event of February '03. Even as of some 3 ½ months before the February 6, 2003 incident Mr. Koran was undergoing an x-ray of his sacroiliac joints. The findings on the ancillary testing done after the February 6, 2003 event take many years to develop and these could not possibly be temporally related to the February 6, 2003 accident. The following is a summary of the past medical history.



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On November 29, 2000 Mr. Koran was seen by Dr. Samaan and was telling that provider that he had been having low back pain for 'many years'.

On July 22, 2002 Dr. Samaan mentioned that Mr. Koran was complaining of low back discomfort with radiation of pain into his left hip and down his left leg. This complaint of low back discomfort continued through to 8/13/02 when Mr. Koran was seen by Dr. Samaan. Then on 10/24/02 Mr. Koran had made his way to another primary care physician (Dr. Diaz) and an x-ray was taken of the patient's sacroiliac joints. X-rays of the sacroiliac area were reported as normal. It is, therefore, inferred that Mr. Koran was, even as of 10/24/02 having symptoms about his lower back to necessitate that x-ray of the low back region.

At no time prior to the February 6, 2003 event was Mr. Koran ever said to be asymptomatic as regards to his lumbosacral area and this would not be expected considering the fact the patient was problematic with his lower back for many years.

2) On 2/6/03 Mr. Koran's foot was run over by a car and while being loaded into the ambulance the stretcher released to a lower position. Mr. Koran, at the time of this incident was fully strapped in the stretcher and, therefore, could not possibly strain his lower back. The only mechanism of injury as described was one of a contusion to the low back area and the stretcher obviously was padded.

3) Mr. Koran did not complain in a timely fashion of problems with his lower back to suggest that anything other than at most, a contusion to the soft tissues of the lumbosacral area occurred at the time of the February 2, 2003 event. Mr. Koran was denying any injury to his lower back to both the ambulance personnel, and had no complaints as regards such when seen by the medical providers at the Metro West Medical Center that same day. If one had just aggravated the low back condition such that symptoms would last for many years thereafter, it would be expected that Mr. Koran would have voiced some complaint of new or increased low back discomfort when he saw the medical providers that day on 2/6/03. It was not until 2/10/03 that Mr. Koran returned to New York State and was complaining to Dr. Diaz of some lower back discomfort radiating into his left leg. However, such symptoms voiced to Dr. Diaz are not in a timely fashion to causally relate such to the 2/6/03 event as Mr. Koran was never proven to be asymptomatic as regards to his lower back prior to the February '03 incident and by all accounts had been documented to be problematic with his lower back with or without radiculopathy into his left leg from July 2002 through to the end of October 2002.

4) Mr. Koran has continued to have complaints as regards to his lower back over the years that he causally relates to the 2/6/03 event. However, it would not be unexpected that Mr. Koran would do anything other than this as he had been problematic with his lower back for many years prior to the February 2003 incident and had never been proven to be asymptomatic before that February 2003 event. The following is a summary of Mr. Koran's medical course following February 6, 2003.

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- A) Prior to the first MRI of 2/12/03 Mr. Koran's radiculopathy complaints were confined to the left side. It is only after the MRI study in February 2003 that showed a right sided disc/osteophyte complex that the symptoms the patient was complaining of shifted to his right lower extremity.
  - B) No medical provider has suggested on any consistent basis that Mr. Koran suffered any new injury as regards to his lower back at the time of the 2/6/03 accident. Dr. Diaz and other providers have suggested at times that Mr. Koran had an aggravation of his pre-existing condition causally related to the 2/6/03 event.
  - C) Injections were given into the lower back to address the L5-S1 symptoms (lumbar selective transforaminal blocks on 9/12/03, 12/11/03, 1/8/04, 3/10/04, 10/14/04, 12/29/04, 6/9/05, 8/4/05 and 10/27/05; lumbar facet medial branch blocks at L3-4, L4-5 and L5-S1 (3/3/06 and 3/24/06) and epidural steroid injections given into the lumbosacral area (5/12/06 and 7/14/06)).
  - D) Mr. Koran's reliability as an historian is questioned as Mr. Koran suggests that his erectile dysfunction and other urological/endocrine problems are somehow temporally related to the ambulance event of February 2003 (see Dr. Sauer's note of 10/15/04 when Mr. Koran was suggesting that his erectile dysfunction and inability to reach a climax/ejaculation was timely related to the February 2003 event when in fact Mr. Koran had been problematic with such and as noted by Dr. Samaan within the 6 months prior to the February 2003 incident. Mr. Koran had already received injections of Testosterone for his problem with hypogonadism in the months preceding the February 2003 event). This quality as an inaccurate and unreliable historian raises into question the causal relationship Mr. Koran draws between his back condition and the February '03 event.
- 5) Mr. Koran was seen by medical providers in the immediate period of time following and over the years subsequent to the February 2003 event. Acutely there was no evidence of any significant contusion to the low back area, such that the deep bone/disc and nerve structures would have been affected. There was not even any evidence of abrasions, bruising, cuts, lacerations or swelling noted about the lower back when Mr. Koran was seen by any of the medical providers within the first three months of the February 2003 incident. It would be expected that if one had received a blow to the lower back and that the deep skeletal structures would have been affected with the stretcher having released to a lower position then there would be at least some soft tissue evidence of a contusion to the low back region.

After the initial 3 months following the February 2003 event there has been no consistent positive objective findings on examination noted by any medical provider, which could be causally related to the February 2003 event.

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6) Ancillary testing was done in the form MRI's, CAT scans and discography taken of Mr. Koran's lower back following the February 6, 2003 event and all of this testing has failed to reveal any acute problem causally related to the February 2003 incident.

The positive findings noted on these investigations are indicative of wear and tear, which takes many years to develop and, therefore, could not possibly be temporally related to the February 6, 2003 accident and none of Mr. Koran's own medical providers has suggested such. The significant degenerative changes about the lower back would account for Mr. Koran's complaints of chronic low back problems for many years prior to the February 6, 2003 incident. The following is a summary of this ancillary testing.

An MRI of the lumbosacral spine taken 2/12/03 showed that at the L5-S1 level there was lumbar spondylosis with marked disc space narrowing, degenerative end plate changes and a disc/osteophyte complex to the right side abutting the right S1 nerve root, but without deviating that structure.

On 10/29/03 a three level CAT scan with discogram showed a positive result at the L5-S1 level with the back pain being reproduced with the injection of the degenerative disc found at that level.

On 11/19/03 a CAT scan of the lumbosacral spine showed that at the L5-S1 level there was tearing of the annulus with decreased disc space height and significant osteoarthritic changes. An annular tear is expected and normal in a person who has degenerative disc disease at that level. A degenerate disc loses its water content and just as mud, when it dries out, it leaves "cracks". The tearing of the annulus as noted in the degenerative disc represents nothing but this "cracking" of the annulus as it dries out..

On 4/21/06 a discography evaluation showed at the L5-S1 level there was a positive response with reproduction of the patient's symptoms.

In summary Mr. Koran had a significant problem with his lower back in the form of degenerative changes mainly at the L5-S1 level prior to the February 6, 2003 accident. This had been causing him pain for many years and he was never proven to be asymptomatic as regards to his low back area with or without radiculopathy into his legs before the February 2003 incident. On February 6, 2003 Mr. Koran was involved in an accident where a stretcher released to a lower level. Mr. Koran did not complain in a timely fashion of any problem with his lower back nor were there ever any consistent positive objective findings to suggest any low back problems resulting from the February '03 incident or on examination, which would support Mr. Koran's suggestion that his lower back with radiculopathy complaints are causally related to the February 2003 event.

In conclusion Mr. Koran was at not disabled with any low back condition related to the February 6, 2003 accident.



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There was no period of total disability and Mr. Koran is not permanently impaired and/or disabled as regards to his lower back with or without radiculopathy into his lower extremities causally related to the February 2003 incident.

**WORK STATUS:**

The following comments can be made relative to Mr. Koran's work status and the accident of February 6, 2003.

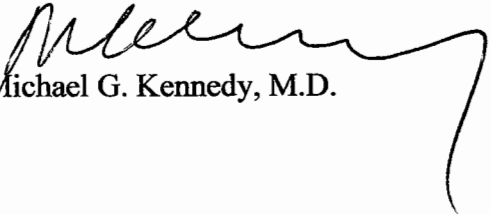
At the time of the February 6, 2003 event Mr. Koran was a 41-year-old individual. He was working as a sales manager for Schwann's Foods. Over the immediate years before the February 2003 incident Mr. Koran had moved around and was quite stressed out by some of his moves. On 4/21/2000 Dr. Samaan made mention that Mr. Koran had recently moved from Columbus, Ohio to Cincinnati and was very stressed with the move. Then on 10/24/02 Mr. Koran was somewhere in the New York state area as he was following up with Dr. Diaz as a new family physician.

On 2/6/03 Mr. Koran was involved in the ambulance event.

As of 7/17/03 (Dr. Wulff's visit) and 1/8/04 (Dr. Tiso's appointment) Mr. Koran was not working, but there is no indication from the medical records that this had anything to do with the back discomfort.

It is the opinion of this evaluator that Mr. Koran was not disabled from work at any time as regards to his low back causally related to the February '03 event.

Sincerely,

  
Michael G. Kennedy, M.D.

MGK/jmd:

**MICHAEL G. KENNEDY, M.D., P.C., F.R.C.S. (C)**

6 UNION STREET  
NATICK, MASSACHUSETTS 01760

TEL.(508) 655-5115 • FAX (508) 650-9351

September 23, 2006

Attorney Michael Leedberg  
Ten Winthrop Square  
Boston, Mass. 02110-1257

RE: Joseph Koran

Dear Attorney Leedberg:

I had the opportunity to review additional medical records sent on September 14, 2006 concerning Mr. Koran. The following is a summary of these notes. Essentially they have not changed the opinions as rendered in the note to you dated December 8, 2006. If anything, they reinforce the fact that Mr. Koran had a significant prior history of troubles with his lower back before the February 6, 2003 event and raises into question again his reliability as an historian.

**MEDICAL RECORD REVIEW:**

On 10/30/98 Mr. Koran was seen by Dr. McMullen (at that time his primary care physician). Mr. Koran was telling that physician that his back was "out", "sore on the right side" and because of this Mr. Koran had difficulty getting out of his car. On physical examination there were right-sided paralumbar findings and a diagnosis of low back pain was made. Flexeril and Daypro were prescribed.

On August 17, 2006 Mr. Koran made his way to see Dr. Huckell (an orthopedic surgeon). Mr. Koran was telling that provider that he was a regional sales director and continued to work full time, full duty. Mr. Koran was reporting to Dr. Huckell the incident with the stretcher, which reportedly had occurred on February 6, 2003 when he was strapped in the stretcher and in a semi-sitting position with the stretcher raised to an angle of approximately 45°. Mr. Koran went on to relate that while being taken out of the ambulance the stretcher dropped to the ground and he experienced immediate discomfort about his lower back. Mr. Koran was denying any prior history of injuries to his lower back or any physical therapy or chiropractic treatments for any low back condition before the February 6, 2003 event. Additionally Mr. Koran was telling Dr. Huckell that after the February 6, 2003 event he developed erectile dysfunction, which did not pre-exist that work related injury of February 6, 2003.

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**OPINIONS:**

The above notes have not changed the opinions rendered to you in the September 8, 2006 report. In particular the reliability of Mr. Koran as an historian is raised when he is denying to Dr. Huckell any prior injury or negating to tell that physician about any prior treatment for his low back before the February 2003 event. Additionally Mr. Koran is less than forthcoming or reliable when he denies ever having erectile dysfunction prior to the February 6, 2003 event (see Dr. Samaan's notes of 12/14/02 when Mr. Koran was reporting to that physician that he was having a problem with erectile issues).

As for the mechanism of injury it appears that Mr. Koran was relating that the trauma occurred when being taken out of the ambulance rather than being put in that vehicle.

Dr. Huckell's opinions as to the diagnosis of a herniated lumbar disc with radiculitis causally related to the February 6, 2003 event is based in part on false statements given by Mr. Koran to that physician and, therefore, the conclusions arrived at by Dr. Huckell are ill founded.

Sincerely,



Michael G. Kennedy, M.D.

MGK/jmd: